

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JOSE GUADALUPE PEREZ-FARIAS, ) NO. CV-05-3061-MWL  
et al., )  
Plaintiffs, ) ORDER DENYING DEFENDANTS'  
vs. ) MOTION FOR A PROTECTIVE ORDER  
GLOBAL HORIZONS, INC., )  
et al., )  
Defendants. )  
\_\_\_\_\_  
)

On November 22, 2006, Defendants Global Horizons, Inc., Mordechai Orian, Jane Doe Orian and Platte River Insurance Company ("Defendants") filed a motion for a protective order relating to the deposition of Defendant Mordechai Orian. (Ct. Rec. 183). Plaintiffs filed a response on December 4, 2006. (Ct. Rec. 191). Defendants filed a reply on December 11, 2006. (Ct. Rec. 197). The matter came on for hearing, without oral argument, on December 28, 2006.

BACKGROUND

On November 13, 2006, Plaintiffs conducted the deposition of Mordechai Orian. During the deposition, counsel for Defendants, Howard Foster, raised objections, instructed his client not to answer and indicated he would be filing a motion for a protective order with respect to two specific areas of inquiry. (Ct. Rec. 184, Exh. A). Defendants subsequently filed a motion for a protective order seeking to prohibit Plaintiffs from inquiring into the recruitment and

1 transportation of H-2A workers from Thailand by Defendants and the  
2 lawsuit between Bruce Schwartz and Global Horizons. (Ct. Rec. 184).  
3 Plaintiffs responded that the two areas of inquiry were relevant as  
4 they were reasonably calculated to lead to the discovery of admissible  
5 evidence. (Ct. Rec. 191). Defendants replied that the actual  
6 information requested by Plaintiffs at the deposition was not relevant  
7 to Plaintiffs' case. (Ct. Rec. 197).

## **DISCUSSION**

## Protective Orders

For "good cause shown," a court may issue a protective order that discovery may be had only on specified terms and conditions." Fed. R. Civ. P. 26(c)(2). Fed. R. Civ. P. 26(c) is a safeguard to protect parties and witnesses in view of Fed. R. Civ. P. 26(b)'s broad discovery rights. *United States v. Columbia Broadcasting System, Inc.*, 666 F.2d 364, 368-369 (9<sup>th</sup> Cir. 1982). Under Fed. R. Civ. P. 26(c), this Court may issue protective orders for persons subject to a subpoena and "for good cause shown . . . may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense," including:

1. Prohibiting disclosure or discovery;
  2. Conditioning disclosure or discovery on specified terms;
  3. Preventing inquiring into certain matters; or
  4. Limiting the scope of disclosure or discovery to certain matters.

To obtain a protective order, the party resisting discovery or seeking limitations must show "good cause" for its issuance. Fed. R. Civ. P. 26(c); *Jepson, Inc. v. Makita Elec. Works, Ltd.*, 30 F.3d 854, 858 (7<sup>th</sup> Cir. 1994). Generally, a party seeking a protective order

1 has a "heavy burden" to show why discovery should be denied and a  
2 strong showing is required before a party will be denied the right to  
3 take a deposition. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429  
4 (9<sup>th</sup> Cir. 1975). "If the motion for protective order is denied in  
5 whole or in part, the court may, on such terms and conditions as are  
6 just, order that any party or other person provide or permit  
7 discovery." Fed. R. Civ. P. 26(c).

## Analysis

Defendants argue that Plaintiffs inquired into two areas which lack relevancy to Plaintiffs' case; specifically, Global's recruitment process and the transportation of H-2A workers from Thailand, the subject of a separate pending lawsuit against Global in this Court (*Yapunaya et al. v. Global Horizons, Inc., et al.*, Case No. CV-06-3048-RHW (E.D. Wash. 2006)), and the facts surrounding a lawsuit between Global and Bruce Schwartz, a former employee. (Ct. Rec. 184, pp. 2-3).

17 Defendants assert that Plaintiffs' case concerns allegations that  
18 Defendants did not follow written employment agreements between itself  
19 and the class members, as well as allegations that Global terminated  
20 employees based on discriminatory reasons. Defendants contend that  
21 Global's recruitment process of H-2A workers (non-parties in this  
22 case) does not relate to Plaintiffs' allegations in the instant case.  
23 With regard to the Schwartz lawsuit, Defendants assert that the case  
24 between Schwartz and Global concerns unfair competition and has  
25 nothing to do with violations of state or federal discrimination laws  
26 or agricultural worker protection acts. (Ct. Rec. 184). For these  
27 reasons, Defendants requested that the Court issue a protective order  
28 preventing Plaintiffs from inquiring into these areas.

1 Plaintiffs respond that inquiry regarding Defendants' recruitment  
2 process of H-2A workers from Thailand is material since it could lead  
3 to information demonstrating that Defendants intended to hire H-2A  
4 workers from Thailand rather than Plaintiffs, information directly  
5 relevant to a cause of action in their complaint. (Ct. Rec. 191, p.  
6 2). Plaintiffs argue that inquiry into the recruitment process of H-  
7 2A Thai workers could establish that Defendants had no intention of  
8 offering employment to Plaintiffs because it planned on using workers  
9 from Thailand.

10 With regard to the Schwartz litigation, Plaintiffs contend that  
11 just because the causes of action in that case may be different from  
12 the claims alleged in the instant case, it does not mean that  
13 information related to Mr. Schwartz is not relevant to this case.  
14 (Ct. Rec. 191, pp. 3-4). Regardless of the difference between the  
15 causes of action in the two cases, Plaintiffs assert that inquiry into  
16 the Global-Schwartz relationship, and their activities in the state of  
17 Washington, could lead to the discovery of admissible evidence. It is  
18 apparent that the two lawsuits share similar underlying facts;  
19 therefore, inquiry could potentially lead to relevant information.

20 Defendants reply that Plaintiffs did not request information  
21 relating to Global's "hiring intent" during the deposition, but  
22 focused instead on the recruitment process which is not a relevant  
23 subject in the instant case. (Ct. Rec. 197). Defendants argue that  
24 Plaintiffs should not be permitted to inquire into the Schwartz  
25 litigation but rather may simply inquire into the role Schwartz had in  
26 dealing with certain state and federal regulations while employed at  
27 Global. (Ct. Rec. 197).

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1 Defendants, as the party seeking to obtain the protective  
2 order, must show "good cause" for its issuance. Fed. R. Civ. P.  
3 26(c); *Jepson*, 30 F.3d at 858. As the party seeking the protective  
4 order, Defendants have a "heavy burden" to show why discovery should  
5 be limited, and a strong showing is required before the Court will  
6 deny Plaintiffs' privilege to inquire into the areas of which  
7 Defendants object. *Blankenship*, 519 F.2d at 429. For good cause  
8 shown, this Court may issue a protective order to protect a party from  
9 annoyance, embarrassment, oppression, or undue burden or expense.  
10 Fed. R. Civ. P. 26(c).

11 The undersigned agrees with Plaintiffs that inquiry into the two  
12 questioned areas could very well lead to admissible evidence. If the  
13 discovery appears reasonably calculated to lead to the discovery of  
14 admissible evidence, the information is deemed relevant and  
15 discoverable. Fed. R. Civ. P. 26(b). The undersigned thus finds that  
16 Defendants have failed to satisfy their burden of demonstrating good  
17 cause for the issuance of a protective order to prohibit Plaintiffs  
18 from inquiring into Global's recruitment process of H-2A workers from  
19 Thailand and information related to Bruce Schwartz.

20 **CONCLUSION**

21 Based on the foregoing, the Court **DENIES** Defendants' motion for a  
22 protective order. (**Ct. Rec. 183**).

23 By denying this motion for a protective order, the Court agrees  
24 with Plaintiffs' position that these areas of inquiry are relevant and  
25 that the requested discovery is permissible.

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1       **IT IS SO ORDERED.** The District Court Executive is directed to  
2 enter this order and forward copies to counsel for Plaintiffs and  
3 Defendants.

DATED this 28<sup>th</sup> day of December, 2006.

S/ Michael W. Leavitt  
MICHAEL W. LEAVITT  
UNITED STATES MAGISTRATE JUDGE